

REFERENCE TITLE: **unmarried couples; responsibilities**

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SB 1397

Introduced by
Senators Chevront, Lopez: Burton Cahill

AN ACT

AMENDING SECTIONS 1-215 AND 36-3231, ARIZONA REVISED STATUTES; AMENDING TITLE 12, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 21; RELATING TO REGISTERED DOMESTIC PARTNERSHIPS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Recognition of the definition of marriage:
3 recognition of responsibilities, obligations,
4 duties and protections

5 A. This state recognizes:

6 1. That marriage is between one man and one woman.

7 2. That two unrelated adults who are in a committed relationship and
8 who share a household should undertake certain responsibilities, obligations
9 and duties to one another that they should be required to uphold.

10 3. That it is in the interest of the people of this state to encourage
11 relationships that are responsible, committed and enduring.

12 B. For these reasons this state adopts the following as the
13 relationship recognition and responsibilities act.

14 Sec. 2. Section 1-215, Arizona Revised Statutes, is amended to read:
15 1-215. Definitions

16 In the statutes and laws of this state, unless the context otherwise
17 requires:

18 1. "Action" includes any matter or proceeding in a court, civil or
19 criminal.

20 2. "Adopted rule" means a final rule as defined in section 41-1001.

21 3. "Adult" means a person who has attained ~~the age of~~ eighteen years
22 OF AGE.

23 4. "Alternative fuel" means:

24 (a) Electricity.

25 (b) Solar energy.

26 (c) Liquefied petroleum gas, natural gas, hydrogen or a blend of
27 hydrogen with liquefied petroleum or natural gas that complies with any of
28 the following:

29 (i) Is used in an engine that is certified to meet at a minimum the
30 United States environmental protection agency low emission vehicle standard
31 pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

32 (ii) Is used in an engine that is certified by the engine modifier to
33 meet the addendum to memorandum 1-A of the United States environmental
34 protection agency as printed in the federal register, volume 62, number 207,
35 October 27, 1997, pages 55635 through 55637.

36 (iii) Is used in an engine that is the subject of a waiver for that
37 specific engine application from the United States environmental protection
38 agency's memorandum 1-A addendum requirements and that waiver is documented
39 to the reasonable satisfaction of the director of the department of
40 environmental quality.

41 (d) Only for vehicles that use alcohol fuels before August 21, 1998,
42 alcohol fuels that contain not less than eighty-five per cent alcohol by
43 volume.

44 (e) A combination of at least seventy per cent alternative fuel and no
45 more than thirty per cent petroleum based fuel that operates in an engine

1 that meets the United States environmental protection agency low emission
2 vehicle standard pursuant to 40 Code of Federal Regulations section 88.104-94
3 or 88.105-94 and that is certified by the engine manufacturer to consume at
4 least seventy per cent alternative fuel during normal vehicle operations.

5 5. "Bribe" signifies anything of value or advantage, present or
6 prospective, asked, offered, given, accepted or promised with a corrupt
7 intent to influence, unlawfully, the person to whom it is given in that
8 person's action, vote or opinion, in any public or official capacity.

9 6. "Child" or "children" as used in reference to age of persons means
10 persons under ~~the age of~~ eighteen years **OF AGE**.

11 7. "Clean burning fuel" means:

12 (a) An emulsion of water-phased hydrocarbon fuel that contains not
13 less than twenty per cent water by volume and that complies with any of the
14 following:

15 (i) Is used in an engine that is certified to meet at a minimum the
16 United States environmental protection agency low emission vehicle standard
17 pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

18 (ii) Is used in an engine that is certified by the engine modifier to
19 meet the addendum to memorandum 1-A of the United States environmental
20 protection agency as printed in the federal register, volume 62, number 207,
21 October 27, 1997, pages 55635 through 55637.

22 (iii) Is used in an engine that is the subject of a waiver for that
23 specific engine application from the United States environmental protection
24 agency's memorandum 1-A addendum requirements and that waiver is documented
25 to the reasonable satisfaction of the director of the department of
26 environmental quality.

27 (b) A diesel fuel substitute that is produced from nonpetroleum
28 renewable resources if the qualifying volume of the nonpetroleum renewable
29 resources meets the standards for California diesel fuel as adopted by the
30 California air resources board pursuant to 13 California code of regulations
31 sections 2281 and 2282 in effect on January 1, 2000, the diesel fuel
32 substitute meets the registration requirement for fuels and additives
33 established by the United States environmental protection agency pursuant to
34 section 211 of the clean air act as defined in section 49-401.01 and the use
35 of the diesel fuel substitute complies with the requirements listed in 10
36 Code of Federal Regulations part 490, as printed in the federal register,
37 volume 64, number 96, May 19, 1999.

38 (c) A diesel fuel that complies with all of the following:

39 (i) Contains a maximum of fifteen parts per million by weight of
40 sulfur.

41 (ii) Meets ASTM D975.

42 (iii) Meets the registration requirements for fuels and additives
43 established by the United States environmental protection agency pursuant to
44 section 211 of the clean air act as defined in section 49-401.01.

1 (iv) Is used in an engine that is equipped or has been retrofitted
2 with a device that has been certified by the California air resources board
3 diesel emission control strategy verification procedure, the United States
4 environmental protection agency voluntary diesel retrofit program or the
5 United States environmental protection agency verification protocol for
6 retrofit catalyst, particulate filter and engine modification control
7 technologies for highway and nonroad use diesel engines.

8 (d) A blend of unleaded gasoline that contains at minimum eighty-five
9 per cent ethanol by volume or eighty-five per cent methanol by volume.

10 (e) Neat methanol.

11 (f) Neat ethanol.

12 8. "Corruptly" imports a wrongful design to acquire or cause some
13 pecuniary or other advantage to the person guilty of the act or omission
14 referred to, or to some other person.

15 9. "Daytime" means the period between sunrise and sunset.

16 10. "Depose" includes every manner of written statement under oath or
17 affirmation.

18 11. "Federal poverty guidelines" means the poverty guidelines as
19 updated annually in the federal register by the United States department of
20 health and human services.

21 12. "Grantee" includes every person to whom an estate or interest in
22 real property passes, in or by a deed.

23 13. "Grantor" includes every person from or by whom an estate or
24 interest in real property passes, in or by a deed.

25 14. "Includes" or "including" means not limited to and is not a term of
26 exclusion.

27 15. "Inhabitant" means a resident of a city, town, village, district,
28 county or precinct.

29 16. "Issue" as used in connection with descent of estates includes all
30 lawful, lineal descendants of the ancestor.

31 17. "Knowingly" imports only a knowledge that the facts exist that
32 bring the act or omission within the provisions of the statute using such
33 word. It does not require any knowledge of the unlawfulness of the act or
34 omission.

35 18. "Magistrate" means an officer having power to issue a warrant for
36 the arrest of a person charged with a public offense and includes the chief
37 justice and ~~judges~~ JUSTICES of the supreme court, judges of the superior
38 court, justices of the peace and police magistrates in cities and towns.

39 19. "Majority" or "age of majority" as used in reference to age of
40 persons means ~~the age of~~ eighteen years OF AGE or more.

41 20. "Malice" and "maliciously" import a wish to vex, annoy or injure
42 another person, or an intent to do a wrongful act, established either by
43 proof or presumption of law.

1 21. "Mentally ill person" includes an idiot, an insane person, a
2 lunatic or a person non compos.

3 22. "Minor" means a person under ~~the age of~~ eighteen years OF AGE.

4 23. "Minor children" means persons under ~~the age of~~ eighteen years OF
5 AGE.

6 24. "Month" means a calendar month unless otherwise expressed.

7 25. "Neglect", "negligence", "negligent" and "negligently" import a
8 want of such attention to the nature or probable consequence of the act or
9 omission as a prudent man ordinarily bestows in acting in his own concerns.

10 26. "Nighttime" means the period between sunset and sunrise.

11 27. "Oath" includes an affirmation or declaration.

12 28. "Peace officers" means:

13 (a) Sheriffs of counties. ,—

14 (b) Constables. ,—

15 (c) Marshals. ,—

16 (d) Policemen of cities and towns. ,—

17 (e) Commissioned personnel of the department of public safety. ,—

18 (f) THE FOLLOWING PERSONS WHO HAVE RECEIVED A CERTIFICATE FROM THE
19 ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD:

20 (i) Personnel who are employed by the state department of corrections
21 and the department of juvenile corrections. ~~who have received a certificate~~
22 ~~from the Arizona peace officer standards and training board,~~

23 (ii) Peace officers who are appointed by a multicounty water
24 conservation district. ~~and who have received a certificate from the Arizona~~
25 ~~peace officer standards and training board,~~

26 (iii) Police officers who are appointed by community college district
27 governing boards. ~~and who have received a certificate from the Arizona peace~~
28 ~~officer standards and training board,~~

29 (iv) Police officers who are appointed by the Arizona board of regents.
30 ~~and who have received a certificate from the Arizona peace officer standards~~
31 ~~and training board and~~

32 (v) Police officers who are appointed by the governing body of a public
33 airport pursuant to section 28-8426. ~~and who have received a certificate from~~
34 ~~the Arizona peace officer standards and training board.~~

35 29. "Person" includes a corporation, company, partnership, firm,
36 association or society, as well as a natural person. When the word "person"
37 is used to designate the party whose property may be the subject of a
38 criminal or public offense, the term includes the United States, this state,
39 or any territory, state or country, or any political subdivision of this
40 state that may lawfully own any property, or a public or private corporation,
41 or partnership or association. When the word "person" is used to designate
42 the violator or offender of any law, it includes corporation, partnership or
43 any association of persons.

44 30. "Personal property" includes money, goods, chattels, dogs, things
45 in action and evidences of debt.

1 31. "Population" means the population according to the most recent
2 United States decennial census.

3 32. "Process" means a citation, writ or summons issued in the course of
4 judicial proceedings.

5 33. "Property" includes both real and personal property.

6 34. "Real property" is coextensive with lands, tenements and
7 hereditaments.

8 35. "REGISTERED DOMESTIC PARTNER" MEANS EITHER PARTY TO A RELATIONSHIP
9 THAT IS REGISTERED PURSUANT TO TITLE 12, CHAPTER 21.

10 ~~35.~~ 36. "Registered mail" includes certified mail.

11 ~~36.~~ 37. "Seal" as used in reference to a paper issuing from a court or
12 public office to which the seal of such court or office is required to be
13 affixed means an impression of the seal on that paper, an impression of the
14 seal affixed to that paper by a wafer or wax, a stamped seal, a printed seal,
15 a screened seal or a computer generated seal.

16 ~~37.~~ 38. "Signature" or "subscription" includes a mark, if a person
17 cannot write, with the person's name written near it and witnessed by a
18 person who writes the person's own name as witness.

19 39. "SPOUSE", AS IT RELATES ONLY TO HOSPITAL VISITATION RIGHTS,
20 EMERGENCY MEDICAL DECISION-MAKING, INHERITANCE, AND BURIAL AND CREMATION
21 DUTIES, INCLUDES A REGISTERED DOMESTIC PARTNER.

22 ~~38.~~ 40. "State", as applied to the different parts of the United
23 States, includes the District of Columbia, this state and the territories.

24 ~~39.~~ 41. "Testify" includes every manner of oral statement under oath
25 or affirmation.

26 ~~40.~~ 42. "United States" includes the District of Columbia and the
27 territories.

28 ~~41.~~ 43. "Vessel", as used in reference to shipping, includes ships of
29 all kinds, steamboats, steamships, barges, canal boats and every structure
30 adapted to navigation from place to place for the transportation of persons
31 or property.

32 ~~42.~~ 44. "Wilfully" means, with respect to conduct or to a circumstance
33 described by a statute defining an offense, that a person is aware or
34 believes that the person's conduct is of that nature or that the circumstance
35 exists.

36 ~~43.~~ 45. "Will" includes codicils.

37 ~~44.~~ 46. "Workers' compensation" means workmen's compensation as used
38 in article XVIII, section 8, Constitution of Arizona.

39 ~~45.~~ 47. "Writ" signifies an order or precept in writing issued in the
40 name of the state or by a court or judicial officer.

41 ~~46.~~ 48. "Writing" includes printing.

1 Sec. 3. Title 12, Arizona Revised Statutes, is amended by adding
2 chapter 21, to read:

3 CHAPTER 21
4 REGISTERED DOMESTIC PARTNERSHIPS
5 ARTICLE 1. GENERAL PROVISIONS

6 12-2951. Definitions

7 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

8 1. "CERTIFICATE OF REGISTERED DOMESTIC PARTNERSHIP" MEANS A DOCUMENT
9 THAT CERTIFIES THAT THE PERSONS NAMED ON THE CERTIFICATE HAVE REGISTERED A
10 DOMESTIC PARTNERSHIP IN THIS STATE.

11 2. "DOMESTIC PARTNERSHIP" MEANS THAT TWO ELIGIBLE PERSONS HAVE
12 ESTABLISHED A CONTRACTUAL RELATIONSHIP AND ARE SUBJECT TO THE
13 RESPONSIBILITIES AND BENEFITS THAT ARE PRESCRIBED BY SECTION 12-2953.

14 3. "PARTY TO A REGISTERED DOMESTIC PARTNERSHIP" MEANS A PERSON WHO HAS
15 REGISTERED PURSUANT TO THIS CHAPTER.

16 12-2952. Requirements for a valid registered domestic
17 partnership; filing fee

18 A. TWO PERSONS WHO MEET ALL OF THE FOLLOWING REQUIREMENTS MAY ENTER
19 INTO A REGISTERED DOMESTIC PARTNERSHIP:

20 1. ARE AT LEAST EIGHTEEN YEARS OF AGE.

21 2. ARE NOT RELATED BY BLOOD IN A WAY THAT WOULD DISQUALIFY THEM
22 PURSUANT TO TITLE 25.

23 3. ARE NOT MARRIED PURSUANT TO TITLE 25.

24 4. ARE COMPETENT TO ENTER INTO A CONTRACT.

25 5. SUBMIT A NOTARIZED AND SIGNED AFFIDAVIT TO THE CLERK OF THE
26 SUPERIOR COURT IN EITHER THEIR COUNTY OF RESIDENCE OR IN MARICOPA OR PIMA
27 COUNTY THAT IS PROVIDED BY THE CLERK AND THAT STATES EACH APPLICANT'S NAME,
28 AGE AND RESIDENTIAL ADDRESS. THE APPLICANTS SHALL PROVIDE THEIR SOCIAL
29 SECURITY NUMBERS TO THE CLERK SEPARATELY FROM THE AFFIDAVIT. THE CLERK SHALL
30 FILE THE AFFIDAVIT AND ISSUE A CERTIFICATE OF REGISTERED DOMESTIC PARTNERSHIP
31 TO THE APPLICANTS.

32 B. THE FILING FEE REQUIREMENTS UNDER SECTION 12-284 FOR FILING A
33 LICENSE PURSUANT TO TITLE 25 APPLY TO THE REQUIREMENTS OF THIS SECTION.

34 12-2953. Responsibilities and benefits of parties to a
35 registered domestic partnership; limitation

36 EACH PARTY TO A REGISTERED DOMESTIC PARTNERSHIP IS CONSIDERED TO BE
37 RELATED BY LAW AND HAS THE SAME RESPONSIBILITIES AND BENEFITS RELATING TO THE
38 OTHER REGISTERED DOMESTIC PARTNER AS THOSE PRESCRIBED PURSUANT TO TITLE 25
39 ONLY AS TO THE FOLLOWING:

40 1. HOSPITAL VISITATION.

41 2. EMERGENCY MEDICAL DECISION-MAKING.

42 3. INHERITANCE AS PRESCRIBED BY SECTION 14-2102.

43 4. BURIAL AS PRESCRIBED BY SECTION 36-831.

44 5. CREMATION AS PRESCRIBED BY SECTION 32-1365.02.

12-2954. Modification of terms

PARTIES TO A REGISTERED DOMESTIC PARTNERSHIP MAY MODIFY THE TERMS OF THEIR REGISTERED DOMESTIC PARTNERSHIP IN THE SAME MANNER AND TO THE SAME EXTENT AS PERSONS WHO EXECUTE PREMARITAL AGREEMENTS PURSUANT TO TITLE 25.

12-2955. Dissolution of a registered domestic partnership; fees

A. A REGISTERED DOMESTIC PARTNERSHIP MUST BE DISSOLVED IN THE SAME MANNER AS PRESCRIBED UNDER TITLE 25, CHAPTER 3.

B. THE FILING FEE REQUIREMENTS UNDER SECTION 12-284 RELATING TO DOMESTIC RELATIONS ACTIONS APPLY TO THE DISSOLUTION OF A REGISTERED DOMESTIC PARTNERSHIP.

12-2956. Formalization; right of nonparticipation

A. PERSONS LISTED IN SECTION 25-124 MAY FORMALIZE A REGISTERED DOMESTIC PARTNERSHIP.

B. THIS ARTICLE DOES NOT REQUIRE ANY RELIGIOUS ORGANIZATION TO PARTICIPATE IN FORMALIZING A REGISTERED DOMESTIC PARTNERSHIP.

Sec. 4. Section 36-3231, Arizona Revised Statutes, is amended to read:

36-3231. Surrogate decision makers; priorities; limitations

A. If an adult patient is unable to make or communicate health care treatment decisions, a health care provider shall make a reasonable effort to locate and shall follow a health care directive. A health care provider shall also make a reasonable effort to consult with a surrogate. If the patient has a health care power of attorney that meets the requirements of section 36-3221, the patient's designated agent shall act as the patient's surrogate. However, if the court appoints a guardian for the express purpose of making health care treatment decisions, that guardian shall act as the patient's surrogate. If neither of these situations applies, the health care provider shall make reasonable efforts to contact the following individual or individuals in the indicated order of priority, who are available and willing to serve as the surrogate, who then have the authority to make health care decisions for the patient and who shall follow the patient's wishes if they are known:

1. The patient's spouse OR THE PATIENT'S REGISTERED DOMESTIC PARTNER, unless the patient and spouse are legally separated OR THE PATIENT AND THE PATIENT'S REGISTERED DOMESTIC PARTNER HAVE LEGALLY ENDED THEIR DOMESTIC PARTNERSHIP.

2. An adult child of the patient. If the patient has more than one adult child, the health care provider shall seek the consent of a majority of the adult children who are reasonably available for consultation.

3. A parent of the patient.

4. If the patient is unmarried, the patient's domestic partner IF THE PATIENT AND THE DOMESTIC PARTNER HAVE NOT REGISTERED PURSUANT TO TITLE 12, CHAPTER 21.

5. A brother or sister of the patient.

6. A close friend of the patient. For the purposes of this paragraph, "close friend" means an adult who has exhibited special care and concern for

1 the patient, who is familiar with the patient's health care views and desires
2 and who is willing and able to become involved in the patient's health care
3 and to act in the patient's best interest.

4 B. If the health care provider cannot locate any of the people listed
5 in subsection A of this section, the patient's attending physician may make
6 health care treatment decisions for the patient after the physician consults
7 with and obtains the recommendations of an institutional ethics committee.
8 If this is not possible, the physician may make these decisions after
9 consulting with a second physician who concurs with the physician's decision.
10 For the purposes of this subsection, "institutional ethics committee" means a
11 standing committee of a licensed health care institution appointed or elected
12 to render advice concerning ethical issues involving medical treatment.

13 C. A person who makes a good faith medical decision pursuant to this
14 section is immune from liability to the same extent and under the same
15 conditions as prescribed in section 36-3205.

16 D. A surrogate may make decisions about mental health care treatment
17 on behalf of a patient if the patient is found incapable. However, a
18 surrogate who is not the patient's agent or guardian shall not make decisions
19 to admit the patient to a level one behavioral health facility licensed by
20 the department of health services, except as provided in subsection E of this
21 section or section 14-5312.01, 14-5312.02 or 36-3281.

22 E. If the admitting officer for a mental health care provider has
23 reasonable cause to believe after examination that the patient is incapable
24 as defined in section 36-3281, subsection D and is likely to suffer serious
25 physical harm or serious illness or to inflict serious physical harm on
26 another person without immediate hospitalization, the patient may be admitted
27 for inpatient treatment in a level one behavioral health facility based on
28 informed consent given by any surrogate identified in subsection A of this
29 section. The patient shall be discharged if a petition for court ordered
30 evaluation or for temporary guardianship requesting authority for the
31 guardian to consent to admission to a level one behavioral health facility
32 has not been filed within forty-eight hours of admission or on the following
33 court day if the forty-eight hours expires on a weekend or holiday. The
34 discharge requirement prescribed in this section does not apply if the
35 patient has given informed consent to voluntary treatment or if a mental
36 health care provider is prohibited from discharging the patient under federal
37 law.